

CITY OF LYNN

**Regular City Council Meeting, March 12, 2019
Council President Darren P. Cyr**

Nine Councilors Present (Councilor Barton and Councilor Lozzi absent).

Moment of Silence. Council President Cyr asked that the Family of Deborah Lozzi be remembered. Councilor Colucci asked that the Family of Ray Comeau also be remembered.

Pledge of Allegiance.

Motion made by Councilor Colucci and seconded by Councilor Starbard to accept the Meeting Minutes of February 26, 2019.

Motion carried.

Council President Cyr announced that Councilor Lozzi was not at the meeting, as he had a death in his family and that Councilor Barton could not attend the meeting.

COMMUNICATIONS / LYNN CITY COUNCIL:

Communication from Attorney James Lamanna, Assistant City Solicitor:

Law Opinion dated March 12, 2019 re: Ordinance amending the Ordinance relative to salaries and benefits of Department Heads in the City of Lynn:

Dear Council President Cyr:

You have requested an opinion as to the legality of a proposed Ordinance eliminating and/or reducing the salaries and benefits of Department Heads who willfully chose to move outside of the City of Lynn in contravention of Section 8-11 of the City Charter and a sworn Affidavit signed by the Department Head at the time of hiring. It is my understanding that the proposed Ordinance would eliminate longevity, educational incentive benefits, sick buyback and personal day buyback from a Department Head who moved out of the City. Please be advised that Section 8 – 11 of the Lynn City Charter states:

Every person who is appointed to a city office, and every person who is employed on a permanent full time basis by the city not a resident of the city at the time of such appointment or employment shall, within six months following such appointment or employment, establish his ordinary and usual place of residence within the city or such appointment or employment **shall be deemed to be vacated or forfeited.** (Emphasis Added).

Upon the commencement of employment any Department Head must sign an Affidavit which states in relevant part:

I UNDERSTAND THAT IF I AM NOT NOW A RESIDENT OF THE CITY OF LYNN, I MUST MOVE INTO THE CITY WITHIN SIX MONTHS OF THIS DATE. I ALSO UNDERSTAND THAT I MUST CONTINUE TO BE A RESIDENT FOR THE DURATION OF MY EMPLOYMENT WITH THE CITY. IF I FAIL TO MOVE INTO THE CITY WITHIN THE SIX MONTHS SPECIFIED OR IF I MOVE OUT OF THE CITY OF LYNN AT ANY TIME THEREAFTER MY EMPLOYMENT SHALL BE DEEMED TO BE VACATED OR FORFEITED.

The City Charter unequivocally states that an employee who moves out of the City of Lynn after 6 months of employment shall be deemed to have vacated or forfeited his/her position. The Charter does not permit continued employment following an employee's departure from the City. As such, the proposed Ordinance before the Lynn City council this evening is in direct contravention of Section 8 – 11 of the Charter as it permits continued employment following a residency violation. It is therefore the opinion of this office that the Council should not conduct a public hearing on the proposed Ordinance that directly conflicts with the City Charter. Rather, the proper procedure for disciplining Department Heads and all employees is to adhere to the process as outlined in the Ordinance Establishing the Residency Compliance Commission. Finally, the failure to follow the clear direction of Section 8 – 11 of the City Charter would expose the City to a ten taxpayer lawsuit seeking an Order from a Court requiring City officials to take appropriate actions to comply with the Charter. Should you have any further questions regarding this matter, please do not hesitate to contact this office. Very truly yours, James P. Lamanna, Assistant City Solicitor

Motion made by Councilor Colucci and seconded by Councilor Starbard to cancel the Public Hearing scheduled this evening regarding the Proposed Ordinance Relative to the Salaries and Benefits of Department Heads in the City of Lynn.

Motion carried.

Council Appointments to the Pine Grove Cemetery:

Robert Nadeau, 51 Herschel Street, Lynn, to the Pine Grove Cemetery Commission. Mr. Nadeau's appointment is effective immediately and will expire on September 30, 2020.

Motion made by Councilor LaPierre and seconded by Councilor Starbard to appoint Robert Nadeau to the Pine Grove Cemetery Commission, effective immediately and will expire on September 26, 2020.

Motion carried.

Obed A. Matul, 47 Ocean Street, Lynn to the Pie Grove Cemetery Commission. Mr. Matul's appointment is effective immediately and will expire on September 30, 2020.

Motion made by Councilor LaPierre and seconded by Councilor Starbard to appoint Obed Matul to the Pine Grove Cemetery Commission, effective immediately and will expire on September 26, 2020.

Motion carried.

PUBLIC HEARINGS:

Petition of Fiesta Shows for a Carnival for the Fourth of July Fireworks Fund to be held at Lynn English High School Parking Lot on April 17-21, 2019 with set up from April 15-16, 2019.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councilor Starbard and seconded by Councilor Net to grant the prayer of the Petitioner.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councilor Barton and Councilor Lozzi absent).

PUBLIC HEARINGS TO BE SET DOWN:

-Petition of National Grid to install 1 JO Pole on Bulfinch Road and Carrol Way to fee three new houses on Carroll Way (Starbard)

-Petition of Margaret Ansara, owner of Lynnway Liquor Mart Inc. to allow Mobile Food Trucks on the premises of 702 Lynnway. (Hogan).

Motion made by Councilor Colucci and seconded by Councilor Walsh to set down for Public Hearings.

Motion carried.

COMMITTEES REPORTS:

Report of the March 12, 2019 Committee on Ordinance and Rules recommending the following to be accepted:

1. **DISCUSSION:**

A Proposed ACT Authorizing the City of Lynn to Grant an Additional Liquor License for the Sale of All Alcoholic Beverages not to be Drunk on the Premises. - **TABLED**

2. **DISCUSSION AND/OR TO SET DOWN FOR A PUBLIC HEARING:**

A Proposed Ordinance Consolidating the Treasurer/Collector's Office in the City of Lynn.- **Motion to set down for Public Hearing with amended language.**

3. **OTHER BUSINESS**

REPORT ACCEPTED.

Report of the March 12, 2019 Committee on Utilities recommending the following to be accepted:

PUBLIC HEARINGS:

Petition of National Grid to install 13 JO poles and anchors on poles, all on Harwood St. (**Chakoutis**) **TABLED**

Petition of National Grid to install conduits from 4 poles to 4 different manholes on Harwood St. (**Chakoutis**) - **TABLED**

Petition of National Grid for a grant of location for its water and sewer work in conjunction with its Lynn #21 substation yard construction on Marine Boulevard. (**Hogan**) – **Granted**

Petition of Comcast for a grant of location at 38-54 Exchange St and 11 Spring St for the purpose of installing a new underground conduit. (**Chakoutis**)- **Granted**

OTHER BUSINESS:

Petition of National Grid to install 50' of 12-5" conduits crossing Marine Blvd, between 2 new manholes on private property of National Grid. Also, install 25' of 4-5" conduits to existing manholes #5 and #6. (Granted January 22, 2019 with the stipulation that National Grid pave the entire street).

Motion by Councilor Field and seconded by Councilor Chakoutis to remove the stipulation requiring National Grid to pave the entire street.

REPORT ACCEPTED.

Report of the March 12, 2019 Committee on Licensing recommending the following to be accepted:

TAXI OPERATORS NEW:

Baez Santana, Alejandro: 484 Western Ave #B4 (*Tabled 02/26*) - **Granted**

Cardona, Yimmy: 17 Huss Ct. - **Granted**

McAleer, Michael: 49 Michigan Ave - **Granted**

Merida-Lopez, Merari A.: 160 Williams Ave - **Granted**

Pena Perez, Pedro Ezequiel: 18 Grant St (*Tabled 02/26*)- **Denied**

LIVERY OPERATORS NEW:

Deida-Mendez, Juan M: 52 Essex St - **Granted**

**CLASS I AUTO DEALER/AUTO REPAIR/FLAMMABLE – CHANGE OF ADDRESS
BUSINESS NAME AND OWNER (NOT A TRANSFER)**

777-795 Lynnway – Pride Hyundai of Lynn dba Pride Kia

(Change to Pride Hyundai of Lynn, Inc., 777 Lynnway,

Owner: Pride Hyundai of Lynn, Inc., Suzanne Iovanna) - **Granted**

SECOND HAND ARTICLE LICENSE-- NEW

26 Market St., M & O Mobile Service- **Granted**

MOBIL FOOD TRUCK LICENSE – ALL LOCATED AT 3-11 MT. VERNON STREET

948 Broadway, Saugus, MA, Kowloon's- **Granted**

82 Crest Ave., Revere, MA Daddy's Bonetown Burgers- **Granted**

88 Gerish Ave. #314, Chelsea, MA, Roadies Diner- **Granted**

14 Winter Berry Road, Brookline, N.H. Compliments Food - **Granted**

SIGN LICENSE-RENEWAL

155 Central Ave., Edward's Perfume- **Granted**

OTHER BUSINESS:**Canning:**

East Lynn Little League (Adults Only) – June 8,9,10, 2019 - **Granted**

Lynn Jets Lacrosse Team (Adults Only) – April 5,6,7, 2019 - **Granted**

REPORT ACCEPTED.

**Report of the March 12, 2019 Committee on Ways and Means recommending
the following to be accepted:**

Transfer the sum of Forty Three Thousand and Five Hundred Ten Dollars and Nine Cents (43,510.09)

From the Account of <u>76424-1000</u>	GAR-PR	43,510.09
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To the Account of <u>76425-4300</u>	GAR-EXP	43,510.09
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To fund Emergency Boiler Repairs.

Councilor Starbard attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to a financial order transferring the sum of Forty Three Thousand and Five Hundred Ten Dollars and Nine Cents (43,510.09)

From the Account of <u>76424-1000</u>	GAR-PR	43,510.09
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To the Account of <u>76425-4300</u>	GAR-EXP	43,510.09
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To fund Emergency Boiler Repairs.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following ye and nay vote:

9 YES 0 NO (Councilor Barton and Councilor Lozzi absent)

Emergency Order was then adopted by the following ye and nay vote:

9 YES 0 NO (Councilor Barton and Councilor Lozzi absent).

Certify as an "Available Fund" the amount of ONE HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (150,000.00) as allotted to the City of Lynn Police Department by the Executive Office of Public Safety (EPS) for the FY19 Behavioral Health Unit Funding secured by the Lynn Delegation via Legislative Earmark. Grant Period 02/27/19-06/30/19

*Emergency Preamble in order for the Police Department to start spending these funds.

Councilor Starbard attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order to certify as an "Available Fund" the amount of ONE HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (150,000.00) as allotted to the City of Lynn Police Department by the Executive Office of Public Safety (EPS) for the FY19 Behavioral Health Unit Funding secured by the Lynn Delegation via Legislative Earmark. Grant Period 02/27/19-06/30/19

***Emergency Preamble in order for the Police Department to start spending these funds.**

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following ye and nay vote:

9 YES 0 NO (Councilor Barton and Councilor Lozzi absent).

Emergency Order was then adopted by the following ye and nay vote:

9 YES 0 NO (Councilor Barton and Councilor Lozzi absent).

REPORT ACCEPTED.

Report of the March 12, 2019 Committee on Public Safety and Public Health recommending the following to be accepted:

Constable Appointment:

Gontrand Andre, 10 Wardwell Place Lynn, MA – **Granted**

Constable Re-Appointment:

Christopher P. Chigas, 80 Foster St #101 Peabody MA - **Granted**

REPORT ACCEPTED.

**Report of the March 12, 2019 Committee on Public Property and Parks
recommending the following to be accepted:**

Request from Apothca Cannabis Clinic, 419 Lynnway to host a “Job Fair” at City Hall.

**Motion made by Councilor Walsh and seconded by Councilor Field to allow
Apothica to rent the Auditorium.**

Motion carried.

REPORT ACCEPTED.

Motion made by Councilor Colucci and seconded by Councilor Hogan to adjourn.

**Notice of this meeting was posted in the City Clerk’s Office at least forty-eight
(48) hours in advance.**

A True Copy Attest:

CITY CLERK